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the requirements of § 39.12(b)(7) of this chapter.

[77 FR 36700, June 19, 2012, as amended at 77 FR 37803, June 25, 2012]

§ 38.602 General financial integrity.

A designated contract market must provide for the financial integrity of its transactions by establishing and maintaining appropriate minimum financial standards for its members and non-intermediated market participants.

§ 38.603 Protection of customer funds.

A designated contract market must have rules concerning the protection of customer funds. These rules shall address appropriate minimum financial standards for intermediaries, the segregation of customer and proprietary funds, the custody of customer funds, the investment standards for customer funds, intermediary default procedures and related recordkeeping. A designated contract market must review the default rules and procedures of the derivatives clearing organization that clears for such designated contract market to wind down operations, transfer customers, or otherwise protect customers in the event of a default of a clearing member or the derivatives clearing organization.

§ 38.604 Financial surveillance.

A designated contract market must monitor members' compliance with the designated contract market's minimum financial standards and, therefore, must routinely receive and promptly review financial and related information from its members, as well as continuously monitor the positions of members and their customers. A designated contract market must have rules that prescribe minimum capital requirements for member futures commission merchants and introducing brokers. A designated contract market must:

(a) Continually survey the obligations of each futures commission merchant created by the positions of its customers;

(b) As appropriate, compare those obligations to the financial resources of the futures commission merchant; and

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(c) Take appropriate steps to use this information to protect customer funds.

§ 38.605 Requirements for financial surveillance program.

A designated contract market's financial surveillance program for futures commission merchants, retail foreign exchange dealers, and introducing brokers must comply with the requirements of § 1.52 of this chapter to assess the compliance of such entities with applicable contract market rules and Commission regulations.

§ 38.606 Financial regulatory services provided by a third party.

A designated contract market may comply with the requirements of § 38.604 (Financial Surveillance) and § 38.605 (Requirements for Financial Surveillance Program) of this part through the regulatory services of a registered futures association or a registered entity (collectively, "regulatory service provider"), as such terms are defined under the Act. A designated contract market must ensure that its regulatory service provider has the capacity and resources necessary to provide timely and effective regulatory services, including adequate staff and appropriate surveillance systems. A designated contract market will at all times remain responsible for compliance with its obligations under the Act and Commission regulations, and for the regulatory service provider's performance on its behalf. Regulatory services must be provided under a written agreement with a regulatory services provider that shall specifically document the services to be performed as well as the capacity and resources of the regulatory service provider with respect to the services to be performed.

§ 38.607 Direct access.

A designated contract market that permits direct electronic access by customers (i.e., allowing customers of futures commission merchants to enter orders directly into a designated contract market's trade matching system for execution) must have in place effective systems and controls reasonably

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designed to facilitate the FCM's management of financial risk, such as automated pre-trade controls that enable member futures commission merchants to implement appropriate financial risk limits. A designated contract market must implement and enforce rules requiring the member futures commission merchants to use the provided systems and controls.

Subpart M—Protection of Markets and Market Participants

SOURCE: 77 FR 36700, June 19, 2012, unless otherwise noted.

§ 38.650 Core Principle 12.

The board of trade shall establish and enforce rules:

(a) To protect markets and market participants from abusive practices committed by any party, including abusive practices committed by a party acting as an agent for a participant; and

(b) To promote fair and equitable trading on the contract market.

§ 38.651 Protection of markets and market participants.

A designated contract market must have and enforce rules that are designed to promote fair and equitable trading and to protect the market and market participants from abusive practices including fraudulent, non-competitive or unfair actions, committed by any party. The designated contract market must have methods and resources appropriate to the nature of the trading system and the structure of the market to detect trade practice and market abuses and to discipline such behavior, in accordance with Core Principles 2 and 4, and the associated regulations in subparts C and E of this part, respectively. The designated contract market also must provide a competitive, open and efficient market and mechanism for executing transactions in accordance with Core Principle 9 and the associated regulations under subpart J of this part.

Subpart N—Disciplinary Procedures

SOURCE: 77 FR 36700, June 19, 2012, unless otherwise noted.

§ 38.700 Core Principle 13.

The board of trade shall establish and enforce disciplinary procedures that authorize the board of trade to discipline, suspend, or expel members or market participants that violate the rules of the board of trade, or similar methods for performing the same functions, including delegation of the functions to third parties.

§ 38.701 Enforcement staff.

A designated contract market must establish and maintain sufficient enforcement staff and resources to effectively and promptly prosecute possible rule violations within the disciplinary jurisdiction of the contract market. A designated contract market must also monitor the size and workload of its enforcement staff annually, and ensure that its enforcement resources and staff are at appropriate levels. The enforcement staff may not include either members of the designated contract market or persons whose interests conflict with their enforcement duties. A member of the enforcement staff may not operate under the direction or control of any person or persons with trading privileges at the contract market. A designated contract market's enforcement staff may operate as part of the designated contract market's compliance department.

§ 38.702 Disciplinary panels.

A designated contract market must establish one or more disciplinary panels that are authorized to fulfill their obligations under the rules of this subpart. Disciplinary panels must meet the composition requirements of part 40 of this chapter, and must not include any members of the designated contract market's compliance staff or any person involved in adjudicating any other stage of the same proceeding.